
(2014) 03 AP CK 0091

In the Andhra Pradesh High Court

Case No : Criminal Petition No. 13346 of 2013

Syed Sameena Tasneem and Others

APPELLANT

Vs

Sajid Hussain and Others

RESPONDENT

Date of Decision : 03-03-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 499, 500

Citation : (2015) 1 ALD(Cri) 538 : (2014) CriLJ 4215

Hon'ble Judges : R. Kantha Rao, J

Bench : Single Bench

Advocate : S. Dushyanth Reddy, Advocate for the Appellant; Syed Tousif Basha for Respondent No. 1, Advocate for the Respondent

Final Decision : Allowed

Judgement

R. Kantha Rao, J.—Heard the learned counsel appearing for the petitioners, the learned counsel appearing for respondents 1 to 3 and the learned Additional Public Prosecutor representing the State.

2. This Criminal Petition is filed u/s 482 of Cr.P.C., seeking to quash the entire proceedings in C.C. No. 736 of 2013 on the file of the Court of XI Metropolitan Magistrate, Ranga Reddy District at L.B.Nagar.

3. The petitioners are Accused Nos. 1 to 4 in the above case and first respondent is the father, second respondent is the mother and third respondent is the sister of first accused.

4. The brief facts of the case, which is sought to be quashed may be stated as follows:-

Accused Nos. 2 to 4 are close relatives of the first respondent. A2 to A4 made a proposal to give first accused in marriage to A2. It is stated that initially, first respondent did not agree for the same on the ground that there is 14 years age difference between A1 and A2. However, subsequently, in view of the close

relationship between the parties, the first respondent accepted the proposal and there was an engagement of the marriage between A1 and A2. Subsequently, it is stated that in the absence of first respondent, A2 to A4 took away the first accused, who is a minor girl and performed her marriage with A2 much against the will of first respondent.

5. Being aggrieved by the said incident, the first respondent issued a public notice in Eenadu Dily News Paper, stating that "the first accused married the second accused against his will, therefore, she was permanently terminated (Bedekhal) from their family from 18-10-2012 onwards and they declared that they do not have any relationship with the first accused or the remaining accused and that the first accused was dead for them from 18-10-2012 onwards." The said notice was published on 8-11-2012 in Eenadu Telugu Daily News Paper, which was circulated in Kadapa District. A similar notice was published by the first respondent on 15-11-2012.

6. In response to the said notice, the first accused published a notice in Eenadu Telugu Daily News Paper, Kadapa Edition on 1-12-2012 stating therein inter alia that she voluntarily married the second accused; that some cash and passport belonging to the first accused were retained by the first respondent; that the first respondent beat his two wives and children brutally and he injured the first accused with glass and some glass particles pierced into her face, leg and hands and was bleeding ceaselessly; by conducting multiple operations, glass particles were removed from her body and almighty Allah saved her from the clutches of the first respondent. It is further stated in the notice that the first accused remembers the torture caused to her whenever she looks at her face in the mirror and she prays the almighty Allah to punish the first respondent and do justice to her. She demanded the first respondent in the said notice to return her gold, cash, passport and other belongings immediately. She also stated that the first respondent was attempting to cause harm to her and other accused and if anything happens to them, the first respondent will be solely responsible.

7. According to the first respondent, one Mr. Ghouse visited Internet, Eenadu Telugu Daily Kadapa edition and found the aforesaid allegations mentioned in the notice. He translated the entire contents of the notice and made a call to the first respondent and informed about the defamatory allegations. The first respondent/complainant verified those allegations in person and found them to be defamatory made by accused Nos. 1 to 4. He also verified the news paper and found the defamatory and derogatory allegations made against respondents 1 to 3.

8. The version of the first respondent is that the first accused at the behest of accused Nos. 2 to 4 published the aforesaid notice with the help of accused Nos. 5 and 6. The allegation mentioned in the notice that respondents 2 and 3 helped her to elope with A2 and marry him is contrary to truth.

9. It is further alleged in the complaint that A2 to A4 attacked the residence of

the complainant and during that period A1 sustained injuries and she was got treated by the first respondent with his own expenses being a father. He immediately lodged a report before the Police, Saifabad against A2 to A4, but they did not take any action. Then, he filed a complaint before the I-Additional Chief Metropolitan Magistrate, Nampally, Hyderabad, which was forwarded to the police and the Police, Asifnagar registered a case in Crime No. 186 of 2012 and took up investigation in the said case.

10. The version of the first respondent is that at no point of time, he tortured the first accused or any other children. The notice was published with the sole purpose of defaming him and other respondents, therefore, he filed a case against the petitioners/accused alleging commission of offence u/s 499 of I.P.C. The said case was taken on file as C.C. No. 736 of 2013 on the file of the XI Metropolitan Magistrate, Ranga Reddy District at L.B.Nagar. The present Criminal Petition is filed to quash the said case.

11. The learned counsel appearing for the petitioners would submit that the notice was published by the first accused who is the daughter of the first respondent in response to the notices published by him and also under the apprehension that he would cause harm to her and other accused. All the allegations mentioned in the notice are true and they cannot be stated to be defamatory. Therefore, the learned counsel seeks to quash the complaint.

12. On the other hand, the learned counsel appearing for the respondents 1 to 3 would submit that prima facie the allegations attract the offence punishable u/s 499 of I.P.C. The truth or otherwise of the allegations can only be decided in the course of trial and the complaint cannot be quashed at the threshold.

13. To arrive at a decision as to whether the complaint can be quashed or not, we have to see the back ground facts of the case. Admittedly, the first accused married the second accused much against the will of her father who is the first respondent. Being infuriated by the said act, the first respondent published two notices in Eenadu Daily News Paper stating that for all purposes, the first accused was dead and she had no connections whatsoever with his family. After publication of the said notices, the first accused published the aforesaid notice.

14. According to the first accused she stated the true facts in the said notice and the said notice was published under the apprehension that some harm would be caused to her and other accused by her father who is an influential person.

15. Exception (9) of Section 499 of I.P.C., reads as under:-

It is not defamation to make an imputation on the character of another provided that the imputation be made in good faith for the protection of the interest of the person making it, or of, any other person, or for the public good.

16. The case of the petitioners/accused clearly falls under the above exception, since it obviously appear that the imputation against the character of the first respondent was made by the first petitioner in good faith and also for the

protection of her interest and also for the protection of remaining accused. Therefore, it cannot be said that either the first petitioner-A1 or the remaining petitioners have committed the offence punishable u/s 500 of I.P.C. If the ingredients of Section 499 of I.P.C., are not attracted, the trial if conducted against the accused, would be a futile exercise. If the petitioners are made to face the trial, it is nothing but abuse of process of law and ultimately it would result in miscarriage of justice.

17. Therefore, the entire proceedings in C.C. No. 736 of 2013 on the file of the Court of XI Metropolitan Magistrate, Ranga Reddy District at L.B.Nagar are quashed.

18. The Criminal Petition is accordingly allowed. The Miscellaneous Petitions pending if any shall stand closed.